

June 15, 2018

Mr. Eugene Vurgaftman
Baltimore County Public Schools
9610 Pulaski Park Drive, Suite 204
Baltimore, Maryland 21220

Re: Patapsco High School
8100 Wise Avenue
Baltimore, Maryland 21222
Forest Conservation Variance
Tracking # 07-18-2699

Dear Mr. Vurgaftman:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on May 10, 2018. The proposed redevelopment activities consist of the construction of a new parking lot over existing lawn and two new entrance driveways to this lot from Wise Avenue. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.6-acre limit of disturbance rather than the entire 28.8 acre school property. Two specimen oak trees, one 35 inches in diameter and the other 33 inches in diameter, will be removed.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to make improvements to a school facility that existed prior to the effective date of the Forest Conservation Law. These

improvements are necessary to provide safe parking for visitors to the school's main entrance, off-road pedestrian access to the running track, safe seating for sports events and on-site services to spectators. In this case, impacts to the two specimen trees are unavoidable. Full application of the law to the entire property would result in unwarranted hardship to the applicant, and we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. Making the proposed improvements is due to unique circumstances associated with the subject property, rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Only 0.6 acres of the 28.2 acre property would be disturbed for the improvements associated with a school that has been in the neighborhood for years. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that there are no wetlands, streams or floodplains on or immediately near the subject improvements. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any related actions on the property prior to requesting this variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the afforestation obligation based on limit of disturbance for the improvements to an existing school would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or water quality would result from the proposed development. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. The project's 4,356 square foot (0.1 acre) afforestation requirement, and mitigation requirement for impacting two specimen trees, shall be met by paying a \$6,399.54 fee-in-lieu. Prior to issuance of any permits, the fee shall be paid to EPS by August 31, 2018.
2. This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please sign the statement on the following page as the Baltimore County Public School representative and return a signed copy of this letter to this Department prior to grading permit issuance.

If you have any questions regarding this correspondence, please call Thomas Panzarella at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

VJG/tcp

I/we agree to the above conditions to bring the referenced Baltimore County Public School site into compliance with Baltimore County's Forest Conservation Law.

BCPS Representative's Signature

Date

Printed Name